No. 98985-1

SUPREME COURT
OF THE STATE OF WASHINGTON

THE FAMILY OF DAMARIUS BUTTS, et al.,

Respondents/Cross-Appellants,

vs.

DOW CONSTANTINE, in his official capacity as King County Executive, et al.,

Appellants/Cross-Respondents.

BRIEF OF AMICUS CURIAE WASHINGTON STATE ASSOCIATION OF COUNTIES

Timothy G. Leyh, WSBA #14853
Tyler L. Farmer, WSBA #39912
Kristin E. Ballinger, WSBA #28253
HARRIGAN LEYH FARMER &
THOMSEN LLP
999 Third Avenue, Suite 4400
Seattle, WA 98104
(206) 623-1700

Attorneys for Washington State Association of Counties

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I. INTRODUCTION

Amicus supports the right of the people of each county to adopt "home rule" charters as authorized by the Washington State Constitution (art. XI, § 4 (amend. 21)) that are adapted to address their specific needs. The people of King County exercised that right in 1968 to adopt a home rule charter with an elected county executive with legal and political authority independent of the county council. King County's charter expressly provides, "[t]he county executive shall be the chief executive officer of the county and shall have all the executive powers of the county which are not expressly vested in other specific elective officers by this charter." King County Charter § 320.20. The counties of Pierce, Snohomish, and Whatcom subsequently adopted home rule charters with nearly identical provisions vesting executive power in the elected county executive. Pierce County Charter § 3.25(1); Snohomish County Charter § 3.20; Whatcom County Charter § 3.22. Washington's elected-executive counties have acted for decades to meet local needs while relying on the full range of residual and implied executive power granted to their county executives to carry out executive functions.

The trial court's conclusion that the vesting of power by the people of King County in their county executive did not comport with the State Constitution cannot be reconciled with the text and history of the

Constitution's provisions enabling home rule government adapted to local issues and needs. The Constitution does not foreclose citizens from adopting charters which vest all county executive power in an executive; rather, it empowers citizens to adopt precisely the arrangement of power at issue in this case. The Court should reverse that portion of the trial court's order; clarify the effect of the Constitution's express vesting provision for home rule counties; and confirm the right of the people of each county to adopt a charter which vests broad authority in their elected executive.

II. INTEREST OF AMICUS CURIAE

The Washington State Association of Counties (WSAC) is a voluntary, non-profit association of elected county commissioners, county councils, and county executives from all of Washington's 39 counties. Created in 1906, WSAC provides a unified voice for and on behalf of counties, and its membership provides it a unique perspective on county governance. Certain of the issues in this case bear on each county's constitutional right to adopt forms of government suitable to local interests and needs.

III. STATEMENT OF THE CASE RELEVANT TO ISSUES ADDRSESSED

The trial court issued an order concluding that King County Charter Section 320.20, which provides that "[t]he county executive . . . shall have all of the executive powers of the county which are not

expressly vested in other specific elective officers by this charter" (*id.*), "does not meet th[e] constitutional requirement" that "any of the County Council's 'executive or administrative powers' must be 'expressly vested in specific officers by the charter,'" CP 2385 (quoting Const. art. XI, § 4).

Specifically, the trial court concluded that the county charter provision (1) did not, in fact, vest in its executive "all of the executive powers of the county which are not expressly vested in other specific elective officers by this charter," because the delegation was "general" and not "specific" (CP 2386); and (2) "is in conflict with the Constitution in that it attempts to add an additional limitation that the office to which powers are delegated must be an 'elective' office" (CP 2385 n.1).

IV. ARGUMENT

A. The History and Purpose of County Home Rule

Since adoption in 1889, the Washington Constitution has "recogniz[ed] the county as the primary organ of local government." *Township of Opportunity v. Kingsland*, 194 Wash. 229, 237, 77 P.2d 793 (1938). Article XI, which governs county, city, and township organization, "recognized that effective civil administration requires local direction and control." Richard F. Utter & Hugh D. Spitzer, *The Washington State Constitution* 183 (2d ed. 2013). The original version of article XI did not provide citizens of each county with any power to adapt

their governing structure to local conditions, requiring instead "a system of county government, which shall be uniform throughout the state." Const. art. XI, § 4 (1889). These provisions "did not recognize that counties of different sizes might have different needs with respect to local-government structure." Utter & Spitzer, *supra* 187. "Thus, the form of county government was for many years fairly static and did not respond to the growth and urbanization of many Washington counties." *Id*. at 188 (citation omitted); *see also* James L. Fitts, *The Washington Constitutional Convention of 1889* 57-58 (1951), https://lib.law.uw.edu/waconst/sources/fitts.pdf#page=1 (last visited Dec. 3, 2020) ("Not until years later was it seen that one of [the County, City and Township Organization Article] clauses would force large and small counties to have the same system of government.").

As Washington developed and some counties experienced rapid population growth, the need for county governance adapted to meet local conditions became increasingly apparent. Washington's Advisory Constitutional Revision Committee concluded in 1935:

> The present form of county government existing throughout the United States is over a hundred years old. . . . In fact, many of the county offices go back into English history for several hundred years, as for example, the offices of sheriff, constable, coroner, and others.
>
> This form of county government was developed historically

> to fit rural conditions. In rural communities it still operates with considerable satisfaction. But it is unsuited to modern urban communities, where many expensive and technical functions have been imposed upon the county. These communities need to secure a form of government better adapted to their conditions and better suited for the administration of large activities. They require a form of county government which centralizes responsibility more definitely, and provides a larger degree of financial control.
>
> The form of county government has remained unchanged because, unfortunately, it was written into the State Constitution. . . . Counties have been prohibited from making changes fundamentally necessary.
>
> . . .
>
> . . . Section 4 of Article XI provides that county government shall be uniform throughout the state. This provision requires (with minor exceptions) the same form of government to be set up for King county, with its population of over 400,000, and for Skamania County with less than 3,000 population. . . .
>
> . . .
>
> . . . It is generally recognized that the present county organization is without any executive head and without any effective financial control. A simpler, more unified, more responsible form of organization is needed, particularly in the larger counties.

Thos. R. Waters, et al., *Report of the Advisory Constitutional Revision Commission of the State of Washington* 7-9 (1935) (A11-12).

In 1948, Amendment 21 was put before the Washington voters to permit home rule charters modifying county governance. The voters' pamphlet stated its text and contained an argument in favor:

This amendment to the state constitution would give counties the right of Home Rule. It must pass November 2 if we are to improve county government in Washington.

The amendment would permit the people of any county in the state to elect 15 to 25 citizens to write a charter or constitution for their county.

In this charter they could put any improvement in government they wished, as long as they did not violate state laws or the state constitution.

They could throw out the ancient spoils system and provide civil service for county employees.

They could insure better roads, better law enforcement, better health service by requiring that officials be qualified for their jobs.

They could reduce waste of tax dollars by setting up tighter budget controls and sensible business methods.

They could include many other modern improvements in county government.

All Washington cities of 20,000 or more population have the right to draw their own Home Rule charters. There is no reason why counties should not have the same right.

The County Home Rule amendment does not REQUIRE a county to change its government unless the people want to. Many counties probably would continue as at present without writing a charter or altering their present county government in any way . . . at least for several years.

But many counties in Washington, especially the larger ones, badly need modernizing. They no longer can operate efficiently under a form of government designed sixty years ago for pioneer rural counties.

Their only chance for progress is the County Home Rule amendment.

> Vote for the County Home Rule amendment! It is a non-partisan measure supported by all groups working for better government. There is no organized opposition.
>
> The need for County Home Rule is urgent. Give it your support November 2!

State Committee for County Home Rule, *Argument for the County Home Rule Amendment*, *in* Wash. Sec'y State, *A Pamphlet* 32 (1948) (A7) (emphasis omitted).

The voters approved Amendment 21 on November 2, 1948, authorizing county home rule.

> Through this constitutional provision, Washingtonians "manifested an intent that they should have the right to conduct their purely local affairs without supervision by the state, so long as they abided by the provisions of the constitution and did not run counter to considerations of public policy of broad concern, expressed in general laws."

King County v. King Cty. Water District No. 20, 194 Wn.2d 830, 850, 453 P.3d 681 (2019) (quoting *State ex rel. Carroll v. King County*, 78 Wn.2d 452, 457-58, 474 P.2d 877 (1970)). By approving Amendment 21, the people "manifested an intent to permit themselves flexibility when they gave plenary power, in local matters, to counties adopting home rule charters." *Henry v. Thorne*, 92 Wn.2d 878, 882, 602 P.2d 354 (1979) (quoting *Carroll*, 78 Wn.2d at 458); *see also generally* 1 *McQuillin Municipal Corporations* § 3:44 (3d ed.) ("The purpose of home-rule constitutional provisions is to eliminate to some extent the authority of the

legislature over the municipality, and to bestow on the municipalities coming under home rule full power of local self-government as to all subjects that are strictly of municipal concern, or germane to municipal functioning, and not in conflict with the constitution or applicable general laws.").

B. Home Rule Counties Today

Article XI, section 4 of the Washington Constitution now empowers the people of each county to "frame a 'Home Rule' charter for its own government subject to the Constitution and laws of this state" as an alternative to the default commission system of county government prescribed by Title 36 of the Revised Code of Washington. Consistent with "the constitution's principle of keeping power close to the people" and "[t]he state's penchant for diffusing political authority," the Constitution now provides "counties and cities . . . substantial flexibility in organizing their local governments on a 'home rule' basis." Utter & Spitzer, *supra* 10. Once adopted, "a home rule charter is the organic law of a county, just as the constitution is for the State." *Maleng v. King Cty. Corr. Guild*, 150 Wn.2d 325, 331, 76 P.3d 727 (2003). After a county's citizens adopt a home rule charter,

> such county shall continue to have all the rights, powers, privileges and benefits then possessed or thereafter conferred by general law. *All the powers, authority and*

> *duties granted to and imposed on county officers by general law*, except the prosecuting attorney, the county superintendent of schools, the judges of the superior court and the justices of the peace, *shall be vested in the legislative authority of the county unless expressly vested in specific officers by the charter*. The legislative authority may by resolution delegate any of its executive or administrative powers, authority or duties not expressly vested in specific officers by the charter, to any county officer or officers or county employee or employees.

Const. art. XI, § 4 (emphasis added). This provision creates a default rule: powers are assigned to the county's legislative authority, unless the charter or legislative authority delegates such powers to a specific officer. *Carrick v. Locke*, 125 Wn.2d 129, 141, 882 P.2d 173 (1994).

The citizens of seven Washington counties have adopted home rule charters: King (1969), Clallam (1977), Whatcom (1979), Snohomish (1980), Pierce (1981), San Juan (2006), and Clark (2015). Municipal Research and Services Center, *County Forms of Government*, http://mrsc.org/Home/Explore-Topics/Governance/Forms-of-Government-and-Organization/County-Forms-of-Government.aspx (last visited Dec. 3, 2020). To date, voters have chosen county charters establishing one of two forms of government: the elected executive model or the appointed administrator model. Under the elected executive model, the county executive is elected by the voters to lead the county's executive branch and plays a strong role in the county's administration, operations, and

governance, including the power to propose legislation to the county council, veto legislation, execute council policies, and appoint and dismiss department heads. *Id*. Under the appointed administrator model, the county legislative authority appoints an administrator, who acts pursuant to a delegation of powers provided in the charter or by the county legislative authority and serves at the pleasure of the council legislative authority. *Id*.

The people of King, Pierce, Snohomish, and Whatcom counties have adopted elected executive home rule charters. Each charter contains similar language expressly vesting in the executive "all the executive powers of the County" except those powers expressly vested in another.[1]

C. The People of King County Properly Exercised Home Rule Authority to Vest All Executive Functions, Including the Holding and Regulation of Inquests, in the County Executive.

RCW 36.24.020 empowers county coroners to

> hold an inquest if the coroner suspects that the death of a person was unnatural, or violent, or resulted from unlawful means, or from suspicious circumstances, or was of such a nature as to indicate the possibility of death by the hand of the deceased or through the instrumentality of some other

[1] King County Charter §§ 310, 320.20 ("The executive branch shall have all executive powers of the county under this charter."; "The county executive . . . shall have all the executive powers of the county which are not expressly vested in other specific elective officers by this charter."); Pierce County Charter § 3.25(1); Snohomish County Charter § 3.20; Whatcom County Charter § 3.22.

person.[2]

By charter and code, the county vested the power to conduct and regulate inquests in its executive. Thus, pursuant to its home rule authority, King County has "broken up the responsibilities of the coroner, as described in the general law of RCW Chapter 36.24, assigning most of the coroner's duties to the division of the medical examiner, but retaining the authority to conduct inquests in the County Executive." *Carrick*, 125 Wn.2d at 141.

As the trial court found (CP 2382), an inquest is an executive function. *Carrick*, 125 Wn.2d at 139 ("inquests combine functions that can be described as both judicial and executive"); *In re Boston*, 112 Wn. App. 114, 118, 47 P.3d 956 (2002) ("the conduct of an inquest remains an executive function"). The King County charter's explicit vesting of "all of the executive powers of the county which are not expressly vested in other specific elective officers by this charter" (King County Charter § 320.20) meets the Constitution's requirement that power be "expressly vested in specific officers by the charter" (Const. art. XI, § 4). The trial court's finding otherwise because the delegation was "general" and not "specific" (CP 2386) confuses the meaning of "expressly" with the meaning of

[2] "RCW Chapter 36.24 dates back virtually unchanged to the 1854 territorial laws of Washington. Thus, it predates the enactment of our state's constitution by some 35 years and has played an active role in our legal system for over a century." *Carrick*, 125 Wn.2d at 137-38 (footnote omitted).

"specific." "Expressly" means "in direct or unmistakable terms," and is synonymous with "explicitly, definitely, and directly." *Webster's Third New International Dictionary* 803 (2002). In contrast with "expressly," which concerns how something is stated, *id.*, "general" and "specific" instead concern what is stated: "general" means "marked by broad overall character without being limited, modified, or checked by narrow precise considerations" while "specific" means "constituting or falling into the category specified." *Id.* 944, 2187. The requirement that vesting be "express" neither requires specificity in the powers vested nor prohibits a general vesting of power.

The trial court misread *Durocher v. King County*, 80 Wn.2d 139, 492 P.2d 547 (1972), as providing otherwise. CP 2386. In quoting *Durocher*, the trial court failed to appreciate that the Court in *Durocher* was determining whether the county council retained *administrative* power, which the Constitution distinguishes from *executive* power. *See* Const. art. XI, § 4 ("The legislative authority may by resolution delegate any of its executive or administrative powers . . . ."). This meant that when the Court stated, "it solves no problem merely to say that since the charter vests all executive powers in the executive branch, the county council possesses no administrative powers," 80 Wn.2d at 150, the Court was not holding that the vesting of "all executive powers in the executive

branch" was improper. To the contrary: the Court thereby implicitly approved such vesting, and held only that the people had not similarly vested all administrative power in the executive branch. Nor does *In re Recall of Hurley*, 120 Wn.2d 378, 841 P.2d 756 (1992) (relied on by the Respondent Cities and Sheriff's Office at p. 59) hold otherwise: there, the Court held that a statutory duty of county commissioners was not vested by the county home rule charter in any officer and therefore was "vested in the legislative authority of the county." *Id.* at 382.

County executives acting pursuant to broad grants of executive power like King County Charter Section 320.20 necessarily possess the authority to issue implementing regulations to carry out the legal powers of their office, like the power to "hold an inquest" pursuant to RCW 36.24.020. This authority is not without limit. It is subject to and cannot contradict the state's Constitution or laws or the county's charter or code. *King Cty. Water District*, 194 Wn.2d at 850 (a home rule county may "exercise powers that do not violate a constitutional provision, legislative enactment, or [its] own charter" (citation omitted)). But absent a "direct and irreconcilable conflict" with these authorities, *Carrick*, 125 Wn.2d at 144, the people of elected-executive counties have granted their executives the discretion and responsibility to faithfully execute the executive functions of the county, subject to the checks of council oversight and

regular elections.

The test for whether there is a "direct and irreconcilable conflict" in violation of the supremacy clause (Const. art. XI, § 11) "is whether the local ordinance permits that which the statute forbids, and vice versa." 125 Wn.2d at 143 (citing *City of Tacoma v. Luvene*, 118 Wn.2d 826, 835, 827 P.2d 1374 (1992)). "If the ordinance and statute can be harmonized, then the statute should not be construed as restricting a municipality's power to enact [related] measures." *Luvene*, 118 Wn.2d at 835. Thus, a local law (which under *Carrick* includes an executive order, 125 Wn.2d at 143-44) which merely fill "gaps in the statute . . . do[es] not create any direct conflict." *Id.* at 144. So long as "the person conducting the inquest" can "comply with [the] requirements" imposed by "the statute and the executive order," there is no conflict. *Id.*; *see also Paget v. Logan*, 78 Wn.2d 349, 356, 474 P.2d 247 (1970) (statute which provided means of determining stadium site did not negate the initiative power conferred upon the electorate by county charter to reject chosen site). The trial court failed to analyze the executive order at issue under this framework, even when the trial court purported to analyze (and then found) a supposed "conflict" between the county charter and the Constitution. *See* CP 2385 n.1 (claiming that the charter's "additional limitation" to that imposed by article XI, section 4 created a "conflict").

And, although purporting to apply constitutional limitations on who decides the scope of executive power, the trial court violated a different tenet of *Carrick*. In *Carrick*, the Court held that "it is for the [county inquest officer] and jury *alone* to decide what matters must be properly inquired into in order to fulfill their statutory duty. . . . [An] inquest . . . must operate as a separate entity which renders an independent, objective opinion." 125 Wn.2d at 144 n.9 (emphasis added). While that language was directed to the county prosecuting attorney, the same could be said of the trial court's deciding what "matters" to the determination of "the circumstances attending [the person's] death." RCW 36.24.040; *see* CP 21-25.

D. The Trial Court's Erroneous Reading of Article XI, Section 4 Undermines the Right of the People of Each County to Adopt and Operate Functional "Elected Executive" Home Rule County Charters.

The trial court recognized the Washington Constitution's default rule of allocating all power to the legislative authority of home rule counties and the exception to this rule: instances where a charter expressly vests power in a specific officer. Despite the plain language of the King County charter providing "the county executive . . . shall have all the executive powers of the county which are not expressly vested in other specific elective officers," the trial court found the County's allocation of

such power in charter section 320.20 insufficient to comply with the express vesting requirement of article XI, section 4. On this basis, the trial court concluded the King County Executive lacked the authority to issue the 2018 Executive Order and its amendments that updated inquest proceedings for deaths caused by law enforcement officers. CP 2405.

The trial court's analysis assumed without evidence or reason that the King County Charter's broad delegation of executive powers to the county executive is "inconsistent" with the principles of home rule and "thoughtful organization" of local government. CP 2385. In other words, while the trial court was willing to take the Constitution's requirement for express vesting of power at face value, it refused to similarly credit the decision of the people of King County to adopt an elected-executive charter that expressly vested all executive powers in the county executive. Regardless of whether the trial court approves of this model of county governance or believes it to be compatible with "thoughtful organization," the people of each county are free to make their own choice pursuant to the home rule provisions of article XI, section 4. The citizens of King, Pierce, Snohomish, and Whatcom counties have chosen to adopt elected-executive models to empower their executives to exercise the full range of executive power to address the unique challenges each community faces.

The fact that high-population counties may prefer and benefit from

tailored governance that diverges from traditional strong-council models should come as no surprise in light of Washington's constitutional history and its evolution from a state dominated by rural frontiers and agriculture, to one marked by dense population centers and international commerce. The 1948 amendment to article XI, section 4 permitting home rule was based on the recognition that "many counties in Washington, especially the larger ones, badly need modernizing. They no longer can operate efficiently under a form of government designed sixty years ago for pioneer rural counties." State Committee for County Home Rule, *supra*, 32 (A7).

Moreover, the adoption of governing structures with a strong elected executive and broad delegations of executive duties is consistent with the purpose of permitting home rule counties. The Advisory Constitutional Revision Commission recognized that

> modern urban communities . . . require a form of county government which centralizes responsibility more definitely . . . . [T]he present county organization is without any executive head . . . . A simpler, more unified, more responsible form of organization is needed, particularly in the larger counties.

Waters, et al., *supra*, 7-9 (A11-12).

The trial court's order would undermine the responsive executive adaptability that is a hallmark of elected-executive home rule counties. It

would compromise the voters' intent to establish a form of county governance with clear responsibilities divided between three independent branches of government: executive, legislative, and judicial. If the trial court's reasoning were affirmed and applied generally, the residual well of authority the people of King, Pierce, Snohomish, and Whatcom county granted their county executives would no longer provide an adequate basis for county orders and actions. Instead, the county council would need to adopt local ordinances authorizing each specific power a county executive seeks to employ. Absent an express grant of power from the county council, nearly every county executive act could be challenged, and the county executive would be reduced to an administrative agent for the county council.

While the people of home rule counties are free to adopt governing structures that constrain executive action, the Constitution does not require that result. The 1948 home rule amendment was designed to move away from such rigid and uniform structures and leave the decision to the people of each county to choose for themselves. By adopting residual wells of executive authority in their county charters, the people of King, Pierce, Snohomish, and Whatcom counties have chosen to empower their county executives to act more freely and respond to each county's diverse and changing needs. As the founding generation recognized centuries ago, the

combination of executive freedom to act and democratic accountability are essential to good governance.

> Energy in the Executive is a leading character in the definition of good government. It is . . . essential to the steady administration of the laws; to the protection of property against those irregular and high-handed combinations which sometimes interrupt the ordinary course of justice; to the security of liberty against the enterprises and assaults of ambition, of faction, and of anarchy.

The Federalist No. 70 (Alexander Hamilton), https://guides.loc.gov/federalist-papers/text-61-70#s-lg-box-wrapper-25493457 (last visited Dec. 3, 2020). The people of four counties have willingly adopted charters which empower their executive officers to act with energy and dispatch to meet the needs of the moment and respond to local circumstances, subject to the check of the county council's authority, regular elections, and the limits of state law. The King County Charter's express grant of executive power to its executive provides a more than adequate foundation to support the use and regulation of inquests consistent with the statutory authority to hold them. The trial court's order to the contrary sharply limits lawful executive authority in elected-executive counties and is inconsistent with the broad discretion granted to the people of each county to structure their own governance to meet their own local needs.

V. CONCLUSION

The Court should reinforce the right of the people of each county

to adopt charters that empower county executives to exercise all executive functions and powers.

SUBMITTED this 4th day of December, 2020.

HARRIGAN LEYH FARMER & THOMSEN LLP

By _____

Timothy G. Leyh, WSBA #14853
Tyler L. Farmer, WSBA #39912
Kristin E. Ballinger, WSBA #28253
999 Third Avenue, Suite 4400
Seattle, WA 98104
Tel: (206) 623-1700
Fax: (206) 623-8717
Email: timl@harriganleyh.com
Email: tylerf@harriganleyh.com
Email: kristinb@harriganleyh.com

Attorneys for Washington State Association of Counties

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State of Washington

A PAMPHLET

Containing

Initiative Measure No. 169
Initiative Measure No. 171
Initiative Measure No. 172
Initiative to the Legislature No. 13
Constitutional Amendments

To Be Submitted to the Legal Voters of the State of Washington for Their Approval or Rejection at the GENERAL ELECTION To Be Held on

Tuesday, November 2, 1948

Compiled and Issued by Direction of

EARL COE
SECRETARY OF STATE

Ballot Titles Prepared by the Attorney General

SMITH TROY
Attorney General

[Chapter 30, Laws 1917]

STATE PRINTING PLANT OLYMPIA, WASH.

PREFACE

As directed by the State Constitution, the office of Secretary of State is presenting herewith a copy of all measures which will head the November 2nd State General Election Ballot.

We regret that state law restricts the size of type and quality of paper. As a consequence, these important measures are not presented in an attractive setting, and the pamphlet may appear uninteresting to many voters.

However, we urge the voters to carefully study these measures to the end that a vote will be cast either for or against each measure on November 2nd. Each voter can express his choice on every measure, irrespective of the fact that some of the proposals may appear to be in conflict. The propositions are voted upon as individual units and the voter can freely mark his preference as each measure is considered.

How you vote on one measure in no way limits your preference on the remaining measures.

Through the cooperation of the Citizens' Registration Committee, a leaflet is enclosed with this pamphlet which fully explains the change in voting the State General Election ballot.

As a responsible citizen, we again urge you to read this leaflet so that your full voting rights will be protected.

If any citizen of the state or public spirited organizations wish additional copies of either the Voters' Pamphlet or the leaflet explaining the new voting procedure, kindly direct your request to my office.

EARL COE

Secretary of State

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An Amendment to the State Constitution

To Be Submitted to the Qualified Electors of the State for Their Approval or Rejection at the

GENERAL ELECTION

TO BE HELD ON

Tuesday, November 2, 1948

CONCISE STATEMENT

PROPOSED AMENDMENT to Constitution to permit counties to adopt "Home Rule" charters.

SENATE JOINT RESOLUTION NO. 5

Be It Resolved, By the Senate and House of Representatives of the State of Washington in legislative session assembled:

That, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1948, there shall be submitted to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Section 4 of Article XI of the Constitution of the State of Washington to read as follows:

Section 4. County Government and Township Organization. The legislature shall establish a system of county government, which shall be uniform throughout the state except as hereinafter provided, and by general laws shall provide for township organization, under which any county may organize whenever a majority of the qualified electors of such county voting at a general election shall so determine; and whenever a county shall adopt township organization, the assessment and collection of the revenue shall be made, and the business of such county and the local affairs of the several townships therein, shall be managed and transacted in the manner prescribed by such general law.

Any county may frame a "Home Rule" charter for its own government subject to the constitution and laws of this state, and for such purpose the legislative authority of such county may cause an election to be had, at which election there shall be chosen by the qualified voters of said county not less than fifteen (15) nor more than twenty-five (25) freeholders thereof, as determined by the legislative authority, who shall have been residents of said county for a period of at least five (5) years preceding their election and who are themselves qualified electors, whose duty it shall be to convene within thirty (30) days after their election and prepare and propose a charter for such county. Such proposed charter shall be submitted to the qualified electors of said county, and if a majority of such qualified electors voting thereon ratify the same, it shall become the charter of said county and shall become the organic law thereof, and supersede any existing charter, including amendments thereto, or any existing form of county government, and all special laws inconsistent with such charter. Said proposed charter shall be published in two (2) legal newspapers published in said county, at least once a week for four (4) consecutive weeks prior to the day of submitting the same to the electors for their approval as above provided.

All elections in this section authorized shall only be had upon notice, which notice shall specify the object of calling such election and shall be given for at least ten (10) days before the day of election in all election districts of said county. Said elections may be general or special elections and except as herein provided, shall be governed by the law regulating and controlling general or special elections in said county. Such charter may be amended by proposals therefor submitted by the legislative authority of said county to the electors thereof at any general election after notice of such submission published as above specified, and ratified by a majority of the qualified electors voting thereon. In submitting any such charter or amendment thereto, any alternate article or proposition may be presented for the choice of the voters and may be voted on separately without prejudice to others.

Any home rule charter proposed as herein provided, may provide for such county officers as may be deemed necessary to carry out and perform all county functions as provided by charter or by general law, and for their compensation, but shall not affect the election of the prosecuting attorney, the county superintendent of schools, the judges of the superior court, and the justices of the peace, or the jurisdiction of the courts.

Notwithstanding the foregoing provision for the calling of an election by the legislative authority of such county for the election of freeholders to frame a county charter, registered voters equal in number to ten (10) per centum of the voters of any such county voting at the last preceding general election, may at any time propose by petition the calling of an election of freeholders. The petition shall be filed with the county auditor of the county at least three (3) months before any general election and the proposal that a board of freeholders be elected for the purpose of framing a county charter shall be submitted to the vote of the people at said general election, and at the same election a board of freeholders of not less than fifteen (15) or more than twenty-five (25), as fixed in the petition calling for the election, shall be chosen to draft the new charter. The procedure for the nomination of qualified electors as candidates for said board of freeholders shall be prescribed by the legislative authority of the county, and the procedure for the framing of the charter and the submission of the charter as framed shall be the same as in the case of a board of freeholders chosen at an election initiated by the legislative authority of the county.

In calling for any election of freeholders as provided in this section, the legislative authority of the county shall apportion the number of freeholders to be elected in accordance with either the legislative districts or the county commissioner districts, if any, within said county, the number of said freeholders to be elected from each of said districts to be in proportion to the population of said districts as nearly as may be.

Should the charter proposed receive the affirmative vote of the majority of the electors voting thereon, the legislative authority of the county shall immediately call such special election as may be provided for therein, if any, and the county government shall be established in accordance with the terms of said charter not more than six (6) months after the election at which the charter was adopted.

The terms of all elective officers, except the prosecuting attorney, the county superintendent of schools, the judges of the superior court, and the justices of the peace, who are in office at the time of the adoption of a Home Rule Charter shall terminate as provided in the charter. All appointive officers in office at the time the charter goes into effect, whose positions are not abolished thereby, shall continue until their successors shall have qualified.

After the adoption of such charter, such county shall continue to have all the rights, powers, privileges and benefits then possessed or thereafter

conferred by general law. All the powers, authority and duties granted to and imposed on county officers by general law, except the prosecuting attorney, the county superintendent of schools, the judges of the superior court and the justices of the peace, shall be vested in the legislative authority of the county unless expressly vested in specific officers by the charter. The legislative authority may by resolution delegate any of its executive or administrative powers, authority or duties not expressly vested in specific officers by the charter, to any county officer or officers or county employee or employees.

The provisions of sections 5, 6, 7, and the first sentence of section 8 of this Article as amended shall not apply to counties in which the government has been established by charter adopted under the provisions hereof. The authority conferred on the board of county commissioners by Section 15 of Article II as amended, shall be exercised by the legislative authority of the county.

And Be It Further Resolved, That the Secretary of State shall cause the foregoing constitutional amendment to be published for at least three (3) months next preceding the election in a weekly newspaper in every county in the state in which such a newspaper is published.

Passed by the Senate January 28, 1947.

VICTOR A. MEYERS,
President of the Senate.

Passed by the House February 21, 1947.

HERBERT M. HAMBLEN,
Speaker of the House.

STATE OF WASHINGTON—ss.
Filed in the office of the Secretary of State, February 24, 1947.

EARL COE,
Secretary of State.

ARGUMENT FOR

THE COUNTY HOME RULE AMENDMENT

(Senate Joint Resolution No. 5)

This amendment to the state constitution would give counties the right of Home Rule. It must pass November 2 if we are to improve county government in Washington.

The amendment would permit the people of any county in the state to elect 15 to 25 citizens to write a **charter** or constitution for their county.

In this charter they could put any improvement in government they wished, as long as they did not violate state laws or the state constitution.

They could throw out the ancient spoils system and provide **civil service** for county employees.

They could insure **better roads, better law enforcement, better health service** by requiring that officials be qualified for their jobs.

They could **reduce waste** of tax dollars by setting up tighter budget controls and sensible business methods.

They could include many other modern improvements in county government.

All Washington cities of 20,000 or more population have the right to draw their own Home Rule charters. There is no reason why counties should not have the same right.

The County Home Rule amendment does not REQUIRE a county to change its government unless the people want to. Many counties probably would continue as at present without writing a charter or altering their present county government in any way . . . at least for several years.

But many counties in Washington, especially the larger ones, badly need modernizing. They no longer can operate efficiently under a form of government designed sixty years ago for pioneer rural counties.

Their only chance for progress is the County Home Rule amendment.

Vote for the County Home Rule amendment! It is a non-partisan measure supported by all groups working for better government. There is no organized opposition.

The need for County Home Rule is urgent. Give it your support November 2!

STATE COMMITTEE FOR COUNTY HOME RULE

STATE OF WASHINGTON—ss.
Filed in the office of the Secretary of State June 30, 1948.

EARL COE,
Secretary of State.

REPORT

of the

Advisory Constitutional Revision Commission

of the

State of Washington

1935
STATE PRINTING PLANT
OLYMPIA

STATEMENT BY THE GOVERNOR

Probably the greatest field for governmental economy is in the elimination or consolidation of duplicated functions. This means governmental reorganization, which, of course, must be preceded by revision of the Constitution.

Therefore, I took the liberty to create the Washington State Advisory Constitutional Revision Commission, which was requested to outline the amendments necessary to open the way for reorganization, consolidation and modernization of state, county and local governments. The report of this commission is herewith transmitted to the Legislature, not as a recommended program, but as dependable information for the benefit of the Legislature in the consideration of governmental reform.

In forming the commission, I chose nine public-spirited citizens, who have given much of their time and efforts, without pay, and I believe they are entitled to commendation. I am sure that members of the Legislature, public officials and other citizens will join me in an appreciation of the work done by the members of the Washington State Advisory Constitutional Revision Commission.

Clarence D. Martin

Members of the Commission

THOS. R. WATERS, Chairman
Bellingham

E. K. MURRAY, *Vice Chairman*
Tacoma

EUGENE B. FAVRE, Spokane
C. M. O'BRIEN, Pasco
DR. CLAUDIUS O. JOHNSON, Pullman
S. D. SANDERS, Puyallup
DR. N. D. SHOWALTER, Olympia
CHARLES W. HALL, Vancouver
DR. JOSEPH P. HARRIS, Seattle

RALPH M. ROGERS, *Executive Secretary*

Honorable Clarence D. Martin,
Governor of the State of Washington,
Olympia, Washington.

Sir: The Advisory Constitutional Revision Commission appointed August 30, 1934, herewith submits to you its final report.

The Constitution of the State of Washington was framed by a convention of seventy-five delegates, chosen by the people of the Territory of Washington at an election held May 14, 1889. The convention met at Olympia on the fourth day of July, 1889, and adjourned on the twenty-second day of August, 1889. The Constitution was ratified by the people at an election held on October 1, 1889, and on November 11, 1889, in accordance with Section 8 of the Enabling Act the President of the United States proclaimed the admission of the State of Washington to the Union.

This is the first Commission that has been authorized to make a study of the Constitution since its adoption, and to propose such changes as seem needful. In these forty-five years the population of the state has increased from 357,232 to 1,563,396. The state has developed economically with great rapidity. The social and economic life of the state has become complicated and complex as compared with its relative simplicity of 1889.

It would be expected that with such growth and development there would arise a need for changes in the fundamental law. There has been some change in our Constitution as evidenced by the fifteen amendments that have been adopted. But these amendments have been confined largely to defining and extending the rights of the people and to restricting and curtailing governmental encroachment upon those rights. The amendments have left practically untouched those large divisions of the Constitution which outline the structure and define the functions of our governmental system. The state thus continues to be governed by practically the same machinery that was provided to meet the needs of half a century ago.

The Commission has kept in view the fact that it was constituted to propose revision and not for the purpose of drafting a new Constitution. Consequently, it is proposing only those changes which in its opinion are necessary for greater economy and efficiency in government, leaving out of consideration changes which would simply render the Constitution a more concise and symmetrical document.

The Commission was favorable to the submission, if necessary because of an existing lack of power, of an amendment authorizing the state, if desired, to engage in the generation, transmission and distribution of electrical power. It was the opinion of lawyer members of the Commission that this power already existed. An opinion was requested of the Attorney General. The correspondence relating thereto is hereinafter set forth for the purposes of information. According thereto no such amendment is necessary and consequently none is proposed.

Not every member of the Commission agrees with every part of every proposal. They do in general recommend the proposals. They will individually or collectively be pleased to appear at any time before the proper legislative committees to give such information and views as they may have concerning any or all of the proposals, and to explain, if desired, any individual differences of opinion.

The Commission has had helpful suggestions and recommendations from many citizens of the state. It has had the counsel and advice of many distinguished representatives of the state and local governments, of the Bench and Bar and of public spirited organizations and societies throughout the United States. The Commission desires to express its appreciation to all those who have aided with their suggestions and advice.

The Commission recommends needed changes in the Constitution in the form of amendments. Following the text of each proposal is a brief statement explaining the amendment together with some of the considerations which have induced the Commission to recommend it.

Respectfully submitted,

THOS. R. WATERS,
Chairman
E. K. MURRAY,
Vice-Chairman
EUGENE B. FAVRE,
C. M. O'BRIEN,
DR. CLAUDIUS O. JOHNSON,
S. D. SANDERS,
DR. N. D. SHOWALTER,
CHARLES W. HALL,
DR. JOSEPH P. HARRIS.

PROPOSAL No. 1

An Amendment To Permit County, City and Township Reorganization

Sections 4, 5, 6, 7, 8 and 10 of Article XI shall be amended to read as follows:

Sec. 4. The legislature shall provide by general law for the organization and government of counties, and may provide by general law alternative forms of county government. No alternative forms shall become operative in any county until submitted to the electors thereof and approved by a majority of those voting thereon under regulations provided by law. The legislature shall provide by general law for township organization under which any county may organize whenever a majority of the qualified electors of such county voting at a general election shall so determine; and whenever a county shall adopt township organization the assessment and collection of the revenue shall be made, and the business of such county and local affairs of the several townships therein, shall be managed and transacted in the manner prescribed by such general law: *Provided*, That any county may abandon township organization whenever a majority of the qualified electors of such county voting thereon at a general election shall so determine, and the legislature shall provide the procedure therefor.

Sec. 5. The legislature shall provide by general or optional law for county, township, or precinct and district officers, as public convenience may require, and shall prescribe their duties and fix their terms of office. It shall provide for the strict accountability of such officers for all fees which may be collected by them, and for all public moneys which may be paid to them, or officially come into their possession.

Sec. 6. Any county shall have the power to frame, adopt and amend or repeal a charter for its government, which shall provide the form of government of the county, and shall determine which of its officers shall be elected, and the manner of their election. Such charter may provide for the abolishment or consolidation of existing county offices or departments, but shall provide for the exercise of all powers vested in, and the performance of all duties imposed upon, counties and county officers by law. Any such charter or amendments thereto shall be submitted to the qualified voters of the county and, if approved by a majority of those voting thereon, shall become the organic law of the county. The manner of exercising the powers herein granted shall be regulated by general law. Any such charter may provide for the exercise by the county of all or of any designated powers vested by the Constitution and the laws of Washington in municipalities, or other local units of government within the county; it may provide for the organization of the county as a municipal corporation; and in any such case it may provide for the succession by the county to the rights, properties and obligations of municipalities and other local units of government therein incident to the municipal power so vested in the county; and may provide for the division of the county into districts for administrative and/or taxing purposes, subject to the tax and debt limitations provided by law. No charter or amendment transferring to the county such municipal powers shall become effective unless it shall have been approved by a majority of those voting thereon (1) in the county,

(2) in the largest municipality, and (3) in the county outside of such municipality.

Sec. 7. The legislature may provide by general law for the consolidation of two or more counties: *Provided*, That no consolidation shall become effective in any county until submitted to the electors thereof and approved by a majority of those voting thereon. The legislature may by general law provide for the consolidation of municipalities and other local units of government with county governments. No city-county consolidation shall become effective unless it shall have been approved by a majority of those voting thereon (1) in the county, (2) in the largest municipality, and (3) in the county outside of such municipality. Any consolidated city and county shall possess the combined powers of cities and counties, and other districts merged therewith, and be subject to the limitations of the same.

Counties shall have such powers as shall be provided by general or optional law. Cities and other local units of government may, with the consent of the county, transfer to the county any of their powers or revoke the transfer of any such power, under regulations provided by general law; but the rights of initiative and referendum shall be secured to the people of such cities or units in respect of every measure making or revoking such transfer, and to the people of the county in respect of every measure giving or withdrawing such consent.

Sec. 8. The salary of any county, city, town, or municipal officer shall not be increased or diminished after his election, or during his term of office; nor shall the term of any such officer be extended beyond the period for which he is elected or appointed.

Sec. 10. Corporations for municipal purposes shall not be created by special law; but the legislature, by general laws, shall provide for the incorporation, organization, and classification, in proportion to the population, of cities and towns, which laws may be altered, amended or repealed. Any city or town containing a population of one thousand five hundred or more shall be permitted to frame a charter for its own government, subject only to this Constitution and to such general laws as shall with uniformity affect every city. The legislature shall provide the procedure for the adoption of such charters and for the abrogation thereof, and may provide optional forms of city government.

EXPLANATIONS AND REASONS

PROPOSAL No. 1

An Amendment To Permit County, City and Township Reorganization

THE FORM OF COUNTY GOVERNMENT UNSUITED FOR URBAN COUNTIES

The present form of county government existing throughout the United States is over a hundred years old. An examination of the early state laws enacted after the Revolution will show that the counties then had about the same organization as they have now, and that, despite the tremendous change which the country has undergone, the form of government has remained virtually unchanged.* In fact, many of the county offices go back into English history for several hundred years, as for example, the offices of sheriff, constable, coroner, and others.

This form of county government was developed historically to fit rural conditions. In rural communities it still operates with considerable satisfaction. But it is unsuited to modern urban communities, where many expensive and technical functions have been imposed upon the county. These communities need to secure a form of government better adapted to their conditions and better suited for the administration of large activities. They require a form of county government which centralizes responsibility more definitely, and provides a larger degree of financial control.

The form of county government has remained unchanged because, unfortunately, it was written into the State Constitution. Cities, on the other hand, have been able to experiment with different forms of government, to consolidate offices, and to adopt a short ballot, because their form of government was not written into the State Constitutions. Counties have been prohibited from making changes fundamentally necessary.

CRITICISM OF COUNTY GOVERNMENT

Within the last few years there has grown up a wide-spread dissatisfaction and criticism of county government, based largely upon the belief, (1) that counties are inefficiently and politically administered, and (2) that, because of the rapid development of transportation and communication, counties are too small to constitute a satisfactory local unit of administration. It is believed that for many functions of government requiring technically trained personnel, or expensive plant or equipment, many counties are too small.

It may be anticipated that the future will see a gradual shifting to the state of certain county functions which for efficient and economical administration require a larger administrative unit. In a number of states, including North Carolina, Virginia, West Virginia, and others, the building and maintenance of highways has already been turned over to the state. The trend toward state centralization is marked also in the fields of public education, public welfare, and health administration. In the future the state will probably take over entirely certain county and local activities, while for other activities the state will contribute part of the cost, with

state supervision designed to bring about a reasonable degree of uniformity and conformity to minimum standards.

Some critics of county government advocate that it should be abolished entirely. They are unmindful of two very important factors: (1) local government is fundamental to our democratic institutions, and will not be readily given up by the American people; and (2) while the necessity for larger scale operation for efficiency and economy may require a gradual shifting of some county functions to the state, and more state support and supervision of county activities, on the other hand, the same trend should logically result in a transfer of certain functions now performed by municipalities and other local districts to the county. This trend has been particularly pronounced in England, where police protection and other functions which we regard as municipal, have been transferred to the county.

It would seem that wise public policy would require, not the abolition or weakening of county government, but rather its preservation, strengthening, and alteration to fit modern conditions. In many rural communities the people are well satisfied with their county governments. The greatest criticisms have developed in the urban and metropolitan counties, where the present form of county government, designed for rural conditions, does not fit their requirements. Any proposed changes in the Constitution concerning county government should recognize the fact that many counties do not desire any change, and consequently should be left as they are.

CONSTITUTIONAL BARRIERS TO COUNTY REFORM

Several provisions in the Washington Constitution have operated to prevent any revision of county government to meet modern conditions. Section 4 of Article XI provides that county government shall be uniform throughout the state. This provision requires (with minor exceptions) the same form of government to be set up for King county, with its population of over 400,000, and for Skamania County with less than 3,000 population. The larger counties of the state carry on many functions not performed by the smaller counties, have budgets running into the millions of dollars, and consequently require a type of organization suited to their large administrative problems. In the smaller counties there is considerable popular control due to the fact that the county officers are personally known to most of the electors of the county, and are elected by their neighbors and friends, while in the metropolitan county the situation is entirely different.

It is obviously unwise to require such rigidity in county government, making all conform to a common mold. Many needed improvements in the county governments of our large counties will have to await the abolition of the requirement that county government shall be *uniform*. If, instead, the legislature is permitted to establish county government by *general* and *optional* laws, it will be possible for it to authorize many needed revisions in county government.

The State Constitution, Article XI, Section 5, enumerates most of the present county officers, including the county commissioners, sheriffs, county clerks, treasurers, and prosecuting attorneys, and provides for their election by popular vote. This enumeration operates to give these offices a constitutional status, and to prohibit the legislature from enacting any law which would change their status. It should be noted, however, that the legislature may consolidate two or more offices for designated classes of counties

and has provided some consolidations for the smaller counties. These consolidations have not resulted in any substantial economies, however, for the usual practice is to continue to operate separate offices, instead of making a real consolidation.

While the functions performed by these officers are necessary, it is nevertheless unwise to give them a constitutional status. Under certain forms of county government some of these offices are consolidated, for example, all fiscal offices into a single department of finance. Under some forms of county government, such as the commission type, or county manager type, the officers performing these functions are appointive instead of elective. In the more populous counties this change is regarded as not only wise, but very necessary. City officers, such as clerks, treasurers, chiefs of police, and attorneys are not given a constitutional status; there would seem to be little reason for giving the county administrative officers a constitutional status. In fact, as long as they are constitutional officers and made elective, removed from any effective executive or legislative control, county government will continue to be unsatisfactory in the more populous counties.

In view of the difficulties in the way of consolidating two or more counties, it is obvious that improvement of county government is more likely to come through changes in organization than area. It is generally recognized that the present county organization is without any executive head and without any effective financial control. A simpler, more unified, more responsible form of organization is needed, particularly in the larger counties. A shorter ballot is needed. Optional laws which would permit counties to adopt forms of government better suited to modern conditions are needed. Counties should also be given the same freedom as the larger cities to work out and adopt forms of government suited to their own conditions and problems through county home rule charters.

The State Constitution makes provision for the division of counties, but does not provide for consolidation of two or more counties. Obviously there should be some provision for consolidation, whereby any two or more counties may vote upon the question, and consolidate if a majority in each county approve. This would not mean that counties would be forced to consolidate against the wishes of the citizens of the county, but it would enable counties to consider and vote upon consolidation.

CONSOLIDATION OF COUNTIES

A great deal of attention has been given to the fact that counties were laid out years ago in the "horse and buggy" days, and are consequently unnecessarily small for modern automobile transportation. There can be no doubt that many of the counties of the state have too small a population to constitute a satisfactory unit of local government. In 1930 there were five counties with less than 5,000 population; ten other counties had between 5,000 and 10,000 population. Eight of these fifteen counties declined in population between 1920 and 1930.

If the county lines were being laid out now anew, without any necessity for considering the existing boundaries or county seats, doubtless larger counties would be set up, and it might be wise to have as few as ten or twelve counties in the state. However, we cannot start anew. We must

take into account the fact that the counties constitute political communities, with interests, traditions, and sentiments, and with county buildings, equipment, and other property. All of this will make it difficult for counties to consolidate, or for larger counties to be set up. It may be anticipated, however, that if the way is open, consolidations will take place where the need is clear and where the citizens become convinced that they would gain more than they would lose. This is the only method of changing county boundaries which would be consistent with American traditions of local government.

It may be pointed out that Washington has only thirty-nine counties, while many states of about the same area have more than double the number. The problem of the small county is not as acute in Washington as in many states. Not only is this the case, but in Washington there are only two counties with the township form of government, while in many states the township system prevails throughout. Under the township form of county government, the local unit for many activities is the town or township—a small part of the county.

Studies of the cost of county government in Washington show conclusively that the per capita costs for administration are much higher in the smaller counties than in the larger. This is due to the fact that it costs so much to maintain an office, say that of county clerk, in any county, and the expense in a county of 10,000 population is only slightly more than that of a county of half the population. For economical administration, much larger counties are needed. The statistics indicate that a minimum of about 25,000 population is advisable to secure low administrative costs. It may be pointed out, on the other hand, that administrative costs, covering such offices as sheriff, clerk, attorney, auditor, assessor, and other offices in the court house, constitute a relatively small part of the total county budget, usually only from ten to twenty per cent. Some of the savings which would be secured by having larger counties would be offset by the cost of the increased distances which some of the citizens would have to go to transact business at the county seat.

GOVERNMENTAL COSTS OF COUNTIES[1] GROUPED ON THE BASIS OF POPULATION

	Population 1930	Current Expense Levy 1933		Administrative Cost Index, 1933 (Assessor, Auditor, Clerk and Sheriff)	
		Amount	Per Capita	Amount	Per Capita
10 most populous counties	1,168,703	$3,984,970	$3 41	$1,180,807	$1 01
10 next populous counties	257,794	1,295,934	5 03	371,253	1 44
9 next most populous counties	89,443	640,867	7 16	179,115	2 00
10 least populous counties	47,456	394,692	8 32	129,945	2 74
39 counties	1,563,396	$6,316,313	$4 04	$1,861,120	$1 19

[1] Compiled from the reports of the county auditors and the State Division of Municipal Corporations.

TREND OF COUNTY GOVERNMENT COSTS

It should be pointed out that the counties of the state have reduced their ordinary expenditures to a level below that of ten years ago. This is indicated in the following table showing the current expense fund disbursements from 1924 to 1933, omitting public welfare items:

CURRENT EXPENSE FUND DISBURSEMENTS OF WASHINGTON COUNTIES, EXCLUSIVE OF PUBLIC WELFARE ITEMS, 1924-1933[1]

YEAR	All Counties	All Counties Except King
1924	$7,090,000	$5,307,000
1926	7,481,000	5,349,000
1928	8,488,000	5,826,000
1930	12,674,000	6,011,000
1932	8,129,000	5,324,000
1933	5,420,000	3,798,000
Per cent decrease 1924-1933	23.6%	28.4%

[1] Compiled from the annual reports of the county auditors.

The current expense fund, it should be noted, covers ordinary county administrative activities, except highways, the school fund, soldiers and sailors assistance, and a few minor funds. In several counties, the hospitals are carried in a special fund. If we take into account the growth of population between 1924 and 1933, the decrease of county expenditures was even greater than indicated in the table. The per capita cost of current expense disbursements, omitting welfare items, in 1924 was $4.93, while that of 1933 was only $3.32, or a 32.7% reduction.

It should be added, however, that during the period from 1924 to 1933 the welfare expenditures of counties increased from slightly over a million dollars in 1924 to nearly four millions in 1933, which more than offset the reductions in ordinary county expenditures. Highway expenditures also increased substantially.

County net bonded indebtedness has declined slightly during the last ten years, as the following table indicates:

TREND OF COUNTY NET BONDED INDEBTEDNESS[1]
(December 31 of each year)

YEAR	All Counties	All Counties Except King
1924	$22,083,000	$14,825,000
1926	19,978,000	13,000,000
1928	16,459,000	11,566,000
1930	20,180,000	10,137,000
1932	22,460,000	10,521,000
1933	21,635,000	10,210,000
Per cent decrease 1924-1933	5.9%	31.5%

[1] Compiled from the annual reports of the county auditors.

The decrease of the net bonded debt of the counties is encouraging, but the discouraging side of the picture is the very great increase in warrant indebtedness, which at the end of 1933 amounted to $9,040,856, or nearly half as much as the net bonded debt. The total county debt has accordingly increased. The presence of such a large amount of warrant indebtedness, equal to about 90% of the amount which the counties may levy for in one year under the 10 mill tax limit, indicates the great need for better financial control, particularly in those counties which have large outstanding warrant indebtedness. This will require a thorough reorganization of the form of county government in the counties affected.

CITY-COUNTY CONSOLIDATION

In the more populous counties of the state, containing a large city, proposals have been made for the last twenty years for city-county consolidation. No progress has been made, however, because of the legal and practical difficulties in the way. The advocates of city-county consolidation point out that there exists side by side, with overlapping authority and duplicating expense, city and county offices charged with the same functions, such as public health, police administration, hospitalization, and other services. In addition, there is a city and county attorney, treasurer, clerk, auditor, and two separate personnel systems. It is believed that a single administration would be conducted more economically and efficiently, and with more definite responsibility.

City-county consolidation exists in a number of larger cities in this country. The county has had practically all of its functions taken from it in the four counties which comprise the City of New York. In 1854 the legislature of Pennsylvania merged the city and county of Philadelphia, making the boundaries coterminous. This, however, did not accomplish the desired results, for there still exist in Philadelphia duplicating city and county offices, though some consolidations were effected. Other city-county consolidations have been brought about by separating the city from the outlying county, and making the city a city-county, leaving the outlying territory to operate as a separate county. This was done in Baltimore in 1851, San Francisco, 1856, St. Louis, 1876 and Denver, 1902. In Virginia the cities of the state are not under the jurisdiction of the counties in which they are situated, but carry on all local governmental functions within their boundaries. They are, in effect, city-counties.

City-county consolidation or separation has worked fairly satisfactorily, but it has not been a panacea. St. Louis and San Francisco have both faced the problem of the metropolitan population overflowing into adjoining counties, and the city-county having no legal means of annexing this territory. The City of St. Louis and St. Louis County voted in 1926 on a proposition to extend the boundaries of the city, but it was defeated. Some of the city-county consolidations have proved to be disappointing because of the failure to abolish the duplicating offices and to set up a new administrative organization. The experience shows that little is to be gained unless there can be a thorough-going reorganization, consolidating offices performing similar functions in the city and county.

Even a cursory examination of the problem of city-county consolidation or separation of the city from the rest of the county indicates that many

serious problems are presented, for which solutions must be found before consolidation or separation can be effected. The property rights of the city and the remaining part of the county must be taken into account; the physical property of the existing county and its location is a very important factor; the taxpaying ability of the city and the rural part of the county and the unwillingness of the rural part to be severed from the city with its heavy assessed valuations: These are some of the outstanding problems.

City-county consolidations in the past have been effected either by separating the city from the outlying area, and making it a new city-county, letting the rural part operate as a separate county, or as in the case of Philadelphia the boundaries of the city and county were so nearly identical that it was possible to consolidate the two, giving the city-county the boundaries of the previous county. Neither method will be practicable in the State of Washington under our conditions. We have no large cities whose boundaries approximate those of the county in which they are situated. It would be unwise to sever any of our large cities from the outlying sections of the county, and thus create a new city-county, leaving the outlying area to carry on as a separate county. This would involve large expense of new county buildings, institutions, equipment, and would increase rather than reduce the number of local units of government. Many problems of local government require a unit of government which reaches beyond the boundaries of the large city. This is true of health, transportation and highways, planning, water and sewerage, police protection, and many other matters. It would be a backward step to separate our large cities from the outlying areas and provide no governmental unit with authority to deal with the problems common to the entire area.

It is obvious that, if city-county consolidation is to be accomplished, it will have to come about through an arrangement whereby one unit of government is set up to perform: (1) city and county functions for the largest city, (2) county functions for the outlying territory, and (3) certain municipal functions for municipalities outside the largest city which may elect to turn these functions over to the county for unified administration throughout the county. It is quite probable that, instead of city-county consolidation, there will take place a gradual, functional consolidation of those activities which require a unified administration throughout the county. Arrangements of this kind will require the use of differential tax rates according to the services rendered to a particular area. If, for example, a single health department were set up for an entire county, as is advocated by health authorities, the urban areas might be taxed at a higher rate for the type of health service rendered to them, and the rural areas taxed at a lower rate for the less expensive service which they receive.

NEEDED CHANGES IN THE STATE CONSTITUTION

The changes in the State Constitution which are necessary before any thorough-going improvement of the county government can be made include the following:

1. Repeal of the requirement that county government be *uniform* for all counties of the state, large and small.

2. Repeal of enumeration of the county officers in the Constitution, thus giving them a constitutional status.

3. Provision whereby two or more counties may be consolidated when a majority of the voters of each vote favorably.

4. Authorization of optional forms of county government to be enacted by the legislature.

5. Provision of home rule for counties, as for cities of the first class at present, permitting any county which is dissatisfied with its government to make such changes in its organization as it may see fit.

6. Provision to enable the consolidation of cities and counties into a single government, where this is desired.

7. A more flexible provision for the transference of local functions from cities to counties.

In addition to these major changes, several minor changes in Article XI are needed as follows:

1. Section 4 provides for the adoption of township form of government, but makes no provision whereby the voters may vote it out after trial. Obviously it should be within the power of the electorate of a county to repeal, as well as to adopt, township government.

2. Section 5 provides, among other things, that the legislature shall determine the compensation of county officers. Since the legislature does not levy the taxes for the county, it should not fix the county salaries. This should be left to the county itself.

3. Section 7 provides that no county officer shall be eligible to serve more than two terms in succession. This provision is unwise today. It leads to undesirable practices and subterfuge.

All of the changes above are provided in the proposed amendment to Article XI. If adopted, it would pave the way for substantial improvements in those counties which are dissatisfied with the present functioning of their county government. It would permit the consolidation of counties, but only by the majority vote of the citizens of each county. These changes would not provide the solution of the problem of local government, but would remove the constitutional restrictions which have stood in the way. The legislature would be permitted to enact optional forms of county government, such as the commission, executive, or county manager types, and counties which wished to do so could adopt one of these optional laws. Other optional laws providing for the simplification and consolidation of county offices could be enacted and adopted by any county which elected to do so.

The proposed amendment would authorize city-county consolidation, in part or in whole, and permit the transference, with suitable safeguards, of any municipal functions to the county. It would permit counties to work out a satisfactory solution to their own problems through the provision for county home rule.

Similar amendments have been adopted within recent years by the states of Ohio, Texas, North Carolina, and Virginia. California has had home rule for counties since 1911, and all of the larger counties of the state have adopted county charters. Several of the recently adopted county charters have provided for a county executive or manager, and have otherwise made substantial changes in the structure of county government. Improvement in county government in California has been made possible through the constitutional provision for county home rule.

This amendment provides two essential changes in Section 10 relative to city government.

1. It extends the privilege of home rule and the right of charter government to cities and towns of fifteen hundred (1500) population, or over, instead of twenty thousand (20,000) as at present.

A town of fifteen hundred population should be permitted to adopt charter government. Whenever the people of the town or city believe that they can procure more efficient and economical government by adoption of a charter under the general law there seems no reason for constitutional restrictions against permitting such right of home rule.

Seven states (Minnesota, Oregon, Michigan, Ohio, New York, Wisconsin and Utah) have extended the privilege of home rule to all cities. Six other states allow home rule to towns with populations ranging from 2,000 to 5,000. Only one other state having a constitutional home rule provision limits its adoption as severely as the State of Washington. There seems to be no abuse of this privilege in other states and the privilege should be extended in Washington as is provided in the proposed amendment to this section.

2. It removes the present provision relating to procedure in adopting and amending charters and leaves the procedure to be provided by law.

The present constitutional procedure for adopting and amending city charters is unnecessarily complicated and expensive. The entire procedure should be left to the legislature. This will permit the adoption of simplified and economical methods and the improvement of those methods where practice and experience demonstrate the need for improvement.

PROPOSAL No. 2

An Amendment Providing For Reorganization of the State Legislature As A Single Body With A Legislative Council

Sec. 1. Beginning with the regular session of January, A. D. 1939, the legislature shall consist of a single body composed of not more than sixty members nor less than thirty members. It and its officers and members shall have, respectively, all of the powers, duties and functions of both or either of the present houses and of the corresponding officers and members of each.

Sec. 2. For the purpose of electing members of the legislature, the state shall be divided into districts of convenient and contiguous territory, and the number of members elected from each district shall be, as near as may be, in proportion to the population thereof according to the last preceding federal census, excluding aliens and Indians not taxed. Consideration may be given to the equalization of the areas of the districts in proportion to the number of members from each, but not so as to depart from the strict population ratio by more than one-fourth.

Sec. 3. At its first session after the adoption of this amendment, the legislature shall by law divide the state into legislative districts, determine the number of members to be elected from each and designate the term of each member. One-half of the members shall be assigned terms of four years and the remainder, terms of two years, and in each legislative district one-half of the members, as near as may be, shall be assigned terms of four years and the remainder terms of two years.

CERTIFICATE OF SERVICE

I, Florine Fujita, declare that I am employed by the law firm of Harrigan Leyh Farmer & Thomsen LLP, a citizen of the United States of America, a resident of the state of Washington, over the age of eighteen (18) years, not a party to the above-entitled action, and competent to be a witness herein.

On December 4, 2020, I caused a true and correct copy of the foregoing document to be served on the persons listed below in the manner indicated:

Counsel for Family of Demarius Butts La Rond B. Baker Adrien Leavitt King County Department of Public Defense 710 2nd Ave Ste 200 Seattle, WA 98104-1703 lbaker@kingcounty.gov adrien.leavitt@kingcounty.gov	☐ Via U.S. Mail ☐ Via Facsimile ☑ Via Email ☑ Via ECF
Counsel for King County, King County Executive Dow Constantine Thomas Kuffel Samantha Kanner David J. Hackett King County Prosecuting Attorney King County Courthouse 516 Third Avenue, W400 Seattle, WA 98104 thomas.kuffel @kingcounty.gov samantha.kanner@kingcounty.gov David.Hackett@kingcounty.gov	☐ Via U.S. Mail ☐ Via Facsimile ☑ Via Email ☑ Via ECF
Counsel for Maternal Family of Charleena Lyles Corey Guilmette Prachi Dave Public Defender Association 110 Prefontaine Pl. S., Suite 502 Seattle, WA 98104 corey.guilmette@defender.org	☐ Via U.S. Mail ☐ Via Facsimile ☑ Via Email ☑ Via ECF

Counsel for Intervenor Police Officers and Petitioner Christopher Myers, Petitioner Elizabeth Kennedy, Petitioner Joshua Vaaga, Petitioner Xavier Gordillo Theron Buck Evan Bariault Karen Cobb Frey Buck PS 1200 5th Ave., Ste. 1900 Seattle, WA 98101-3135 tbuck@freybuck.com ebariault@freybuck.com kcobb@freybuck.com	☐ Via U.S. Mail ☐ Via Facsimile ☑ Via Email ☑ Via ECF
Counsel for Intervenor City of Federal Way Thomas P. Miller Christie Law Group, PLLC 2100 Westlake Ave. N., Ste. 206 Seattle, WA 98 109 tom@christielawgroup.com	☐ Via U.S. Mail ☐ Via Facsimile ☑ Via Email ☑ Via ECF
Counsel for Plaintiff Family of Isaiah Obet Amy Parker Susan Sobel Associated Counsel for the Accused King County Department of Public Defense 710 2nd Ave., Ste. 1000 Seattle, WA 98104-1744 amy.parker@kingcounty.gov susan.sobel@kingcounty.gov	☐ Via U.S. Mail ☐ Via Facsimile ☑ Via Email ☑ Via ECF
Counsel for Intervenors City of Auburn, City of Kent, City of Renton and Special Deputy Prosecuting Attorney for King County Sheriff's Office Stewart Estes Keating, Bucklin & McCormack, Inc., P.S. 801 2nd Ave Ste 1210 Seattle, WA 98104-3175 sestes@kbmlawyers.com	☐ Via U.S. Mail ☐ Via Facsimile ☑ Via Email ☑ Via ECF

Counsel for Officer Steven McNew Karen Cobb Frey Buck, P.S. 1200 5th Ave., Ste. 1900 Seattle, WA 98101 kcobb@freybuck.com	☐ Via U.S. Mail ☐ Via Facsimile ☑ Via Email ☑ Via ECF
Counsel for Inquest Administrator Michael Spearman Tim J. Filer Asti Gallina Foster Garvey PC 1111 Third Avenue, Suite 3000 Seattle, WA 98101 tim.filer@foster.com asti.gallina@foster.com jan.howell@foster.com	☐ Via U.S. Mail ☐ Via Facsimile ☑ Via Email ☑ Via ECF

DATED this 4th day of December, 2020

Florine Fujita, Legal Assistant
florinef@harriganleyh.com

HARRIGAN LEYH FARMER & THOMSEN LLP

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Comments:

Sender Name: Florine Fujita - Email: florinef@harriganleyh.com

Filing on Behalf of: Kristin E Ballinger - Email: kristinb@harriganleyh.com (Alternate Email: florinef@harriganleyh.com)

Address:
999 Third Avenue
Suite 4400
Seattle, WA, 98104
Phone: (206) 623-1700 EXT 303

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